

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO**

Wendy Berry, Lorri Hulings, and Kathleen Sammons, individually and as representatives of a class of similarly situated persons, and on behalf of the FirstGroup America, Inc. Retirement Savings Plan,

Plaintiffs,

v.

FirstGroup America, Inc., FirstGroup America, Inc. Employee Benefits Committee, and Aon Hewitt Investment Consulting, Inc.,

Defendants.

Case No. 1:18-cv-00326-TSB

Judge Timothy S. Black

**STIPULATION REGARDING THE ADMISSIBILITY OF DEPOSITION TESTIMONY**

Plaintiffs Wendy Berry, Lorri Hulings, and Kathleen Sammons, and Defendants FirstGroup America, Inc., FirstGroup America, Inc. Employee Benefits Committee, and Aon Hewitt Investment Consulting, Inc. (collectively, the “Parties”), through their undersigned counsel, agree and stipulate as follows:

WHEREAS, former Aon employees David Kelly and Craig Pearlman were deposed in an earlier lawsuit titled *Reetz v. Lowe’s Companies, Inc., et al.*, No. 5:18-cv-00075 (W.D.N.C.);

WHEREAS, excerpts of the depositions of David Kelly and Craig Pearlman were filed publicly in *Reetz v. Aon Hewitt Investment Consulting, Inc., et al.*, No. 21-2267 (4th Cir.); and

WHEREAS, the Parties have conferred and agree that these publicly available excerpts from the prior depositions of Mr. Kelly and Mr. Pearlman may be used in this case;

THEREFORE, the parties hereby stipulate that the depositions of David Kelly and Craig Pearlman taken in the matter of *Reetz v. Lowe’s Companies, Inc., et al.*, No. 5:18-cv-00075

(W.D.N.C.) may be used in this action to the same extent as if those depositions had been taken in this action.

Dated: May 6, 2022

NICHOLS KASTER, PLLP

By: /s/ Paul J. Lukas

Paul J. Lukas (*admitted pro hac vice*)

Brock J. Specht (*admitted pro hac vice*)

Mark E. Thomson (*admitted pro hac vice*)

Jennifer K. Lee (*admitted pro hac vice*)

Steven J. Eiden (*admitted pro hac vice*)

4700 IDS Center

80 S. 8th Street

Minneapolis, MN 55402

Telephone: (612) 256-3200

lukas@nka.com

bspecht@nka.com

mthomson@nka.com

jlee@nka.com

seiden@nka.com

FREKING MYERS & REUL LLC

George M. Reul, Jr. (0069992)

600 Vine Street, Ninth Floor

Cincinnati, Ohio 45202

Telephone: 513-721-1975

greul@fmr.law

*ATTORNEYS FOR PLAINTIFFS*

Dated: May 6, 2022

GOODWIN PROCTER LLP

By: /s/ David Rosenberg

James O. Fleckner (*admitted pro hac vice*)

David Rosenberg (*admitted pro hac vice*)

100 Northern Avenue

Boston, Massachusetts 02210

Telephone: (617) 570-1000

jfleckner@goodwinlaw.com

drosenberg@goodwinlaw.com

Gabrielle L. Gould (*admitted pro hac vice*)

Samuel J. Rubin (*admitted pro hac vice*)

The New York Times Building

620 Eighth Avenue

New York, New York 10018

Telephone: (212) 813-8800

ggould@goodwinlaw.com

srubin@goodwinlaw.com

DINSMORE & SHOHL LLP

Jennifer O. Mitchell

255 E. Fifth Street, Suite 1900

Cincinnati, Ohio 45202

Telephone: (513) 977-8364

jennifer.mitchell@dinsmore.com

*ATTORNEYS FOR DEFENDANT*

*FIRSTGROUP AMERICA, INC. AND THE*

*FIRSTGROUP AMERICA, INC. EMPLOYEE*

*BENEFITS COMMITTEE*

O'MELVENY & MYERS LLP

By: /s/ William Pollak

Stuart Sarnoff

William Pollak

Times Square Tower

7 Times Square

New York, NY 10036

Telephone: (212) 326-2000  
ssarnoff@omm.com  
wpollak@omm.com

Shannon Barrett  
Brian Boyle  
1625 Eye Street, NW  
Washington, DC 20006-4061  
Telephone: (202) 383-5300  
sbarrett@omm.com  
Bboyle@omm.com

BINGHAM GREENEBAUM DOLL LLP  
V. Brandon McGrath (0072057)  
2350 First Financial Center  
255 East Fifth Street  
Cincinnati, Ohio 45202-4728  
Telephone: 513.455.7641  
bmcgrath@bgdlegal.com

*ATTORNEYS FOR DEFENDANT AON  
HEWITT INVESTMENT CONSULTING,  
INC. (NKA AON HEWITT INVESTMENTS  
USA, INC.)*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of May, 2022, a true and accurate copy of the foregoing was filed electronically. Notice of this filing will be delivered to the parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Paul J. Lukas